

BEFORE THE DIRECTOR
OF THE
OFFICE OF CAMPAIGN FINANCE
D. C. BOARD OF ELECTIONS AND ETHICS
2000 14TH STREET, N. W., SUITE 420
WASHINGTON, D. C. 20009
(202) 671-0550

IN THE MATTER OF

Committee to Elect Childs

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DATE: March 30, 2001

DOCKET NO.: PI 2000-103(e)

ORDER

Statement of the Case

This matter arises out of a complaint filed by Marie Drissel, 2135 Bancroft Place, N. W., Washington, D. C., 20008, alleging a violation of the District of Columbia Campaign Finance Reform and Conflict of Interest Act of 1974, as amended, D. C. Code §§1-1401 et seq. (the Act). Ms. Drissel claimed that Committee to Elect Childs (Committee) failed to disclose in its Reports of Receipts and Expenditures of October 30, and December 10, 2000, payment for a full-page advertisement in the Northwest Current newspaper on October 25, 2000.

Issue

Whether the Committee allegedly failed to disclose in its Reports of Receipts and Expenditures of October 30, and December 10, 2000, as required by D. C. Code §1-1416, payment for a full-page advertisement in the Northwest Current newspaper on October 25, 2000.

Background

On December 18, 2000, Ms. Drissel submitted a complaint wherein she alleged that a full-page advertisement, supporting the candidate, Robert Childs, for President of the D. C. Board of Education, appeared in the Northwest Current newspaper. Stated thereon, she wrote, was "Paid for by the Committee to Elect Childs." Ms. Drissel continued that payment for the advertisement should have been shown on the October 30, or December 10, 2000 Reports. Payment for the advertisement was not listed on either. Ms. Drissel attached a facsimiled copy of the advertisement.

After review of Ms. Drissel's complaint, OCF accepted the complaint for filing on January 9, 2001. On the same date, OCF dispatched a Notice of Hearing, Statement of Violations and Order of Appearance to the candidate, Robert Childs, and A. Wayne Strickland, Committee Treasurer, requiring one or both to provide information on this matter on the record. On January 22, 2001, an informal hearing on this matter was held. Mr. Childs appeared and testified thereon.

The scope of the OCF investigation in this matter encompassed interviewing Committee workers; and gathering, reviewing and verifying pertinent submitted information.

Relevant Statutory and Regulatory Provisions

D. C. Code §1-1416 states, in part, “(a) [Reports of Receipts and Expenditures] shall be complete as of such date as the Director may prescribe, which shall not be more than 5 days before the date of filing[;] (b) [e]ach report under this section shall disclose. . . (10) [t]he total sum of expenditures made by such committee or candidate during the calendar year [and] (11) [t]he amount and nature of debts and obligations owed by or to the committee, in such form as the Director may prescribe and a continuous reporting of its debts and obligations after the election at such periods as the Director may require until such debts and obligations are extinguished[.]”

D. C. Code §1-1435(b)(3) states, in part, “The aggregate set of penalties imposed under the authority of [the Director] may not exceed \$2000.”

At 3 D.C.M.R. §3004.1, it reads, “A candidate may apply for a waiver from the filing and reporting requirements on a form prescribed by the Director.”

At 3 D.C.M.R. §3008.5, it reads, in part, “All expenditures for . . . media. . . shall be itemized and reported on Schedule B in accordance with the instructions for preparing the [Report of Receipts and Expenditures].

At 3 D.C.M.R. §3711.2(bb), it reads, in part, “Fines shall be imposed as follows: . . . failure to disclose required information on reports and statements[.] \$30 per day[.]”

At 3 D.C.M.R. §3711.4, it reads, “In calculating the time period for delinquencies, Saturdays, Sundays, and holidays shall not be included.”

At 3 D.C.M.R. §3711.5, it reads, “Any fine imposed by the Director, under §3711.2, shall become effective on the sixteenth (16th) day following the issuance of a decision and order; Provided, that, the respondent does not request a hearing under §3709.12.”

At 3 D.C.M.R. §3711.7, it reads, “Fines imposed under his chapter shall be paid within ten (10) days of the effective date, at the OCF, Frank D. Reeves Municipal Building, 2000 14th Street, N. W., Washington, D. C., 20009, by money order or check made payable to the D. C. Treasurer.”

On OCF Form 16, “Report of Receipts and Expenditures for Candidate or Political Committee,” it reads, in part, the following:

“3. Is this report an Amendment? (box) YES (box) NO

“WHEN TO FILE. . . All [Reports of Receipts and Expenditures] shall contain all financial transactions through and including the fifth (5th) day preceding the filing deadline for each. . . Report[.]

“TREASURER’S RESPONSIBILITIES. . . The candidate or treasurer of the political committee is personally responsible for the timely and complete filing of the report and for the accuracy of any information contained in it.”

Summary of Evidence

In support of her complaint, Ms. Drissel submitted her notarized letter of December 18, 2000, and attached a facsimiled copy of the subject Northwest Current advertisement. See Attachment A. The Committee, through Mr. Childs, relies upon his responses, to the complaint, given under oath on January 22, 2001, to support his submitted documentation. See Attachment B. OCF relies upon the amended December 10 Report of Receipts and Expenditures (amended December 10 Report) submitted by the Committee on December 27, 2000. See Attachment C.

Findings of Fact

Having reviewed the allegation and respondents' answers, I find:

1. On October 27, 2000, Mr. Childs purchased an advertisement in support of his candidacy for the office of President of the D. C. Board of Education in the Northwest Current.
2. On October 27, 2000, Mr. Childs paid \$1545 for the advertisement by personal check.
3. The cost of the purchase of the advertisement was not included in the Committee's October 30 Report of Receipts and Expenditures.
4. The cut-off date for expenditures to be included in the October 30 Report of Receipts and Expenditures was October 25, 2000.
5. The cost of the purchase of the advertisement was not included in the Committee's December 10 Report.
6. On December 27, 2000, Mr. Childs filed an amended December 10 Report.
7. The cost of the purchase of the advertisement, among other expenditure costs, was included in the Committee's amended December 10 Report.

Conclusions of Law

Based upon the record and evidence, I therefore conclude:

1. On October 27, 2000, Mr. Childs' purchase of the advertisement was a purchase by the Committee because, when applicable, a purchase by the candidate inures to the principal campaign committee. See 3 D.C.M.R. §3004.1.
2. The cost of the purchase of the advertisement was not required to be included in the Committee's October 30 Report of Receipts and Expenditures because, pursuant to D. C. Code §1-1416(a) and instructions for the form, all financial transactions were to be reported through October 25, 2000.
3. The cost of the purchase of the advertisement was required, pursuant to D. C. Code §1-1416(a) and instructions for the form, to be included in the Committee's December 10 Report.

4. The Committee violated D. C. Code §1-1416(a), when it failed to include the cost of the Northwest Current advertisement therein.
5. The penalty established at 3 D.C.M.R. §§3711.2(bb) and 3711.4 for failure to disclose required information on the December 10 Report is a fine of \$30 per day for each business day of noncompliance.
6. In accordance with D. C. Code §1-1435(b)(3), the Committee may be fined a maximum of \$330 for failing to disclose required information on the December 10 Report until December 27, 2000.
7. For good cause shown pursuant to 3 D.C.M.R. §3711.6, the Director may modify, rescind, dismiss or suspend any fine imposed, under §3711, for good cause shown.
8. OCF's provision for the Committee to submit amendments, as a result of corrections and changes to any previous Report of Receipts and Expenditures for Candidate or Political Committee, by instruction in its Form 16 therefor, and the Committee's continuing responsibility, pursuant to D. C. Code §1-1416(b)(10-11), to report its debts and obligations after the election until said debts and obligations are extinguished; combined with Mr. Childs' sworn explanation that the December 10 Report was incomplete due to his inability to locate receipts, that his failure to disclose the cost of the Northwest Current advertisement thereon was not intentional, and that, upon gathering all receipts, he fully disclosed the advertisement's cost on December 27, 2000, in the amended December 10 Report, provided a basis for good cause to suspend the imposition of the fine.

Recommendation

I hereby recommend the Director suspend the imposition of the fine in this matter.

Date

Kathy S. Williams
General Counsel

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ORDER OF THE DIRECTOR

IT IS ORDERED that a fine of \$330 be imposed against the Committee for violation of D. C. Code §1-1416(a). IT IS FURTHER ORDERED, for good cause shown, imposition of the stated fine is suspended.

This Order may be appealed to the Board of Elections and Ethics within 15 days from issuance.

Date

Cecily E. Collier-Montgomery
Director

SERVICE OF ORDER

This is to certify that I have served the following a true copy of the foregoing Order.

S. Wesley Williams, III
Investigator

cc: Curtis Lewis, Esq.
Curtis Lewis and Associate
1750 New York Avenue, N. W.
Washington, D. C. 20004

Robert G. Childs
1624 Webster Street, N. W.
Washington, D. C. 20011

A. Wayne Strickland
1806 Valley Terrace, S. E.
Washington, D. C. 20032

Marie Drissel
2135 Bancroft Place, N. W.
Washington, D. C. 20008

Pursuant to 3 D.C.M.R. §3711.5 (1999), any fine imposed by the Director shall become effective on the 16th day following the issuance of a decision and order, if the respondent does not request an appeal of this matter. If applicable, within 10 days of the effective date of this Order, please make check or money order payable to the D. C. Treasurer, c/o Office of Campaign Finance, Suite 420, 2000 14th Street, N. W., Washington, D. C., 20009.